



2008 SDRS Proposed Legislation

An Act to provide benefit formula improvements for the members of the South Dakota Retirement System.

THE ISSUE

The SDRS Board of Trustees has established benefit formula goals and a benefit funding policy. Certain benefit formula goals have not been achieved but the benefit improvement thresholds defined in the funding policy are currently met.

Over the past several years, the Investment Council's handling of the member trust fund has resulted in exceptional investment returns. Understanding that capital markets can fluctuate, the System nonetheless is very well-funded. All of the Board's actuarial parameters for funding benefit increases have been met. Arguably, those who ultimately manage the System have a fiduciary duty to return the members' funds in the form of actuarially sound benefit increases when the System's financial condition so warrants.

THE SOLUTION

Amend SDRS statutes to grant a retirement benefit formula increase to the System's membership.

THE COMPARISON

Benefit Formula Multiplier

Current Provisions

Class A *

- 1.625% of Final Average Compensation for service prior to 7/1/2002 **plus** 1.55% of Final Average Compensation for service after 7/1/2002

Class B Public Safety

- 2.325% of Final Average Compensation for service prior to 7/1/2002 **plus** 2.0% of Final Average Compensation for service after 7/1/2002

Class B Judicial

- 3.658% of Final Average Compensation for service prior to 7/1/2002 **plus** 3.333% of Final Average Compensation for service after 7/1/2002 for the first 15 years of Class B Judicial credited service **plus** 2.325% of Final Average Compensation for service prior to 7/1/2002 **plus** 2.0% of Final Average Compensation for service after 7/1/2002 in excess of the first 15 years

*Class A members may also qualify for an Alternate Formula.

Proposed Changes

Class A *

- 1.7% of Final Average Compensation for service prior to 7/1/2008 **plus** 1.55 % of Final Average Compensation for service after 7/1/2008

Class B Public Safety

- 2.4% of Final Average Compensation for service prior to 7/1/2008 **plus** 2.0% of Final Average Compensation for service after 7/1/2008

Class B Judicial

- 3.733% of Final Average Compensation for service prior to 7/1/2008 **plus** 3.333% of Final Average Compensation for service after 7/1/2008 for the first 15 years of Class B Judicial credited service **plus** 2.4% of Final Average Compensation for service prior to 7/1/2008 **plus** 2.0% of Final Average Compensation for service after 7/1/2008 in excess of the first 15 years

Estimated Actuarial Cost - \$351 Million

An Act to authorize the South Dakota Retirement System Board of Trustees to establish an automatic enrollment feature within the South Dakota deferred compensation plan.**THE ISSUE**

Participation in the Supplemental Retirement Plan is not as strong as it might be, especially in light of the System's new plan to assist members in comprehensive retirement readiness. The federal Pension Protection Act recently paved the way for optional auto-enrollment provisions in government plans, including Internal Revenue Code § 457 plans (the SRP).

THE SOLUTION

Create legislation that employs this federal permission to allow the Board of Trustees to establish auto-enrollment provisions in SRP administrative rules. The legislation would set legislative guidelines for the rules.

An Act to create the South Dakota Retirement System Supplemental Pension Benefit.**THE ISSUE**

Members are encouraged to participate in the Supplemental Retirement Plan and to use the SRP and/or the Special Pay Plan to enhance their retirement benefits. Many members would appreciate the security of using these SDRS defined contribution funds to provide guaranteed lifetime benefits with survivor benefits in addition to the primary plan's guaranteed lifetime benefits.

THE SOLUTION

Create a Supplemental Pension Benefit within SDRS. Dollars from the SRP and SPP would be transferred into the member trust fund and be converted into guaranteed lifetime benefits. The Supplemental Pension funds would be managed by the South Dakota Investment Office along with all other SDRS assets to provide guaranteed lifetime benefits. The legislation would authorize and the plan would promote post-retirement consolidation of a member's SDRS defined contribution funds toward the supplemental pension benefit.

An act to revise the South Dakota Retirement System's contested case provisions.**THE ISSUE**

Even though the SDRS Board of Trustees is a lay board with no specific legal background, certain contested cases may be appealed to the Board. The Board of Trustees thus has expressed an interest in removing the Board from the contested case (administrative appeals) process.

THE SOLUTION

Rewrite various statutes accordingly. The Board's two primary statutes to be rewritten are SDCL 3-12-57 (the primary appeal statute) and SDCL 3-12-58 (the rules authority statute). Also, the Board would need a statutory exemption from – or a statutory clarification to – SDCL 1-26-15 (agency declaratory rulings).

Instead of an appeal before the Board of Trustees, a member could appeal the SDRS administrator's decision to a professional hearing examiner. After final consideration by the administrator, the member may appeal to circuit court.

HB 1023

An Act to revise certain provisions pertaining to the South Dakota Retirement System, the South Dakota Deferred Compensation Plan or the South Dakota Special Pay Retirement Program.

THE ISSUE

Various SDRS statutes have minor inconsistencies, errors or points of confusion, or are slightly out of compliance with federal law.

THE SOLUTION

Draft and submit “clean-up” legislation to dispose of these minor problems.

An Act to revise the definition of “child” for the purpose of the South Dakota Retirement System.

THE ISSUE

SDRS family and disability benefits paid on behalf of a child cease when the child turns 18 years of age, even though the child may still be a dependent while finishing high school. That may work a hardship on the child, a surviving spouse and/or surviving family members. Other benefit plans and other laws are more liberal in this regard.

THE SOLUTION

Expand the SDRS definition of a minor child to include a child until they are 19 years of age.

THE ISSUE

SDRS’s existing definition of “child or children” relates to minor children for purposes of payment of family and disability benefits (as noted above). However, adult children often come into play in payment of lump-sum payments after a member’s death. Consequently, on occasion SDRS benefit administrators must use the existing definition in administering payments to adult children, but often the definition does not fit well.

THE SOLUTION

Adopt the Uniform Probate Code definition of “child” found in SDCL 29A-1-201 by reference through a new, separate SDRS definition. The Uniform Probate Code definition provides:

“Child” includes an individual entitled to take as a child under this code by intestate succession from the parent whose relationship is involved and excludes a person who is only a stepchild, a foster child, a grandchild, or any more remote descendant.

Estimated Actuarial Cost – \$3.5 Million

An Act to bring the South Dakota Retirement System's annual benefit improvement for certain firefighters in line with the improvement for other members.

THE ISSUE

When the Mitchell firefighters came into SDRS in 1996, a few who already were retired were to continue to receive their old system's 3% simple cost of living allowance ("COLA"). However, System computers have been programmed to provide all the other 18,000 retirees a 3.1% compounded COLA. Programming the computers to accurately apply the COLA for these few retired firefighters has proven challenging, at best.

THE SOLUTION

Amend two statutes to ratify a 3.1% compounded COLA for these retired firefighters.